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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,240	07/18/2003	George Tzertzinis	NEB-208/9-US	3580

28986 7590 10/21/2008  
HARRIET M. STRIMPEL, D. Phil.  
New England Biolabs, Inc.  
240 COUNTY ROAD  
IPSWICH, MA 01938-2723

EXAMINER
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POPA, ILEANA

ART UNIT	PAPER NUMBER
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1633

NOTIFICATION DATE	DELIVERY MODE
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10/21/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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STRIMPEL@NEB.COM  
Goldberg@neb.com  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* GEORGE TZERTZINIS, GEORGE FEEHERY,  
CORINNA TUCKEY, CHRISTOPHER NOREN and  
LARRY MCREYNOLDS

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Application No. 10/622,240  
Technology Center 1600

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Mailed: October 20, 2008

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 12, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith

being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, HEADINGS

A review of the file indicates that the Examiner's Answer filed November 15, 2007, does not comply with the guidelines provided in MPEP § 1207.02 because it does not contain all of the required heading items. Specifically, the Examiner's Answer must contain the following heading items in the following order:

- (1) *Real party in interest.*
- (2) *Related appeals and interferences.*
- (3) *Status of claims.*
- (4) *Status of amendments After Final.*
- (5) *Summary of claimed subject matter.*
- (6) *Grounds of rejection to be reviewed on appeal.*
- (7) *Claims Appendix.*
- (8) *Evidence Relied Upon.*
- (9) *Grounds of Rejection.*
- (10) *Response to Argument.*
- (11) *Related Proceedings Appendix.*

An in-depth review of the Examiner's Answer indicates that the following sections are missing from the Examiner's Answer mailed

November 15, 2007, and/or are not complete or clear in setting forth agreement or disagreement with the Appeal Brief:

- 1) “Real Party in Interest”.

A substitute Examiner’s Answer that is in compliance with the guidelines is required. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

### CORRECTION OF INVENTORSHIP

Appellants filed a “REQUEST AND FEE TO DELETE AND/OR ADD TO ORIGINAL ERRONEOUSLY NAMED OR NOT NAMED INVENTORS(S) IN-NONPROVISIONAL APPLICATION-DECLARATION” dated January 29, 2008. There is no indication on the record that the Examiner has considered the above document.

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90 that corrects the Real Party in Interest;
- 2) consider the above named document filed on January 29, 2008 as required; and
- 3) for such further action as may be appropriate.

Application No. 10/622,240

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/tsj

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